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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,368	12/11/2001	Alex Wah Hin Yeung	506822000100	2730

7590 12/12/2003

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EXAMINER

JONES, DAMERON LEVEST

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 12/12/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/020,368

Applicant(s)

YEUNG, ALEX WAH HIN

Examiner

D. L. Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

ACKNOWLEDGMENTS

1. The Examiner acknowledges receipt of Paper No. 14, filed 5/19/03, wherein Applicant requested reconsideration of the office action mailed 4/11/03, Paper No. 10.

Note: Claims 1-20 are pending.

RESPONSE TO APPLICANT'S INVENTION

2. The Applicant's arguments filed 5/19/03 (Paper No. 14) to the rejection of claims 1-20 made by the Examiner under 35 USC 103 and/or 112 have been fully considered and deemed non-persuasive for the reasons set forth below.

112 First Paragraph Rejections

The rejection of claims 1-20 under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for renal cell carcinoma, does not reasonably provide enablement for all other diseases is MAINTAINED for reasons of record in the office action mailed 4/11/03, Paper No. 10, and those set forth below.

It is noted that on pages 2-3, bridging page, of Applicant's response that Applicant states that "in claims 3-6 in the treatment of disease from hereon defined specifically as cancer...". However, the claims have not been amended to indicate that the 'disease' as set forth in the claims is 'cancer'. Thus, the rejection is maintained on the basis that Applicant is arguing limitations not present in the claims.

It is also noted that Applicant did not respond to the 112, first paragraph, rejection of claims 1, 2, and 7-20.

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103 Rejections

I. The rejection of claims 1, 14, and 19 under 35 USC 103(a) as being unpatentable over Lemelson (US Patent No. 4,665,897) is MAINTAINED for reasons of record in the office action mailed 9/4/02, Paper No. 6, and 4/11/03, Paper No. 10 and those set forth below.

II. The rejection of claims 1, 2, and 7-20 under 35 U.S.C. 103(a) as being unpatentable over Mishani et al (US Patent No. 6,126,917) is MAINTAINED for reasons of record in the office action mailed 4/11/03, Paper No. 10, and those set forth below.

III. The rejection of claims 1, 2, and 7-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vessella et al (EP 210,970) in view of Lemelson (US Patent no. 4,665,897) and Smith et al (The Breast, 1999, Vol. 8, pages 303-310) in further view of Mishani et al (US Patent No. 6,126,917) is MAINTAINED for reasons of record in the office action mailed 4/11/03, Paper No. 10.

Each of the above 103(a) rejections is being maintained on the basis that Applicant has not addressed the rejections. In particular, Applicant submitted a response for claims 3-6 stating that the claims are limited to 'cancer'. However, no amendments were made to any of the claims. Furthermore, even if Applicant is intends to limit claims 3-6 to a cancer, Applicant still needs to address the other pending claims which are given the broadest interpretation possible. Thus, if Applicant intends the claims to be limited to cancer, Applicant needs to submit an amendment as such.


3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. L. Jones whose telephone number is (703) 308-4640. The examiner can normally be reached on Mon.-Fri., 6:45 a.m. - 3:15 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (703) 308 - 2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.


D. L. Jones
Primary Examiner
Art Unit 1616

December 8, 2003